

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Walla Walla District ; CJH LLC, Mr. Cordell Hatch; 2007-1351-I01

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Idaho County/parish/borough: Franklin City: near Weston and Preston
Center coordinates of site: Latitude (NAD83) 42.0288394691688; Longitude (NAD83) -111.922115347249
UTM Zone 12: Coordinate 423666.744660631; Y Coordinate 4653389.50933954

PLSS Township 16 S., Range 39 E., Section 17, Boise Meridian

Name of nearest waterbody: Bear River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows:

Name of watershed or Hydrologic Unit Code (HUC): 16010202

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☐ Office (Desk) Determination. Date:

☒ Field Determination. Date(s): May 8, 2008

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Pick List** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- ☒ TNWs, including territorial seas
- ☒ Wetlands adjacent to TNWs
- ☐ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- ☐ Non-RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☐ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 500 to 1000 linear feet of Bear River frontage.

Wetlands: a narrow fringe along ordinary high water mark < 0.5 acres and inland unmapped wetlands.

c. Limits (boundaries) of jurisdiction based on: Ordinary High Water Mark and wetlands boundary which has not been mapped.

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: .

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: **Bear River.**

Summarize rationale supporting determination: Bear River has historic use by fur traders for navigation. The river also provides substantial hydropower on interstate grid at numerous dams. River provides locations for public boating access with numerous public ramps along its length. Bear River Reservoirs provide substantial recreational motorized navigation. Below reservoirs in limited reaches there is rafting and navigation by fishermen. The project reach is not routinely navigated but is clearly wide and deep enough to support small motorized watercraft.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": Wetlands occupy narrow band along river contiguous with the ordinary high water mark as well as immediately inland and draining to the river.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): Not Applicable

C. SIGNIFICANT NEXUS DETERMINATION: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☒ TNWs: 500 to 1000 linear feet.

☒ Wetlands adjacent to TNWs consist of two types, those at and contiguous to ordinary high water <0.5 acres and inland and substantially larger >1 acres. Neither have been mapped.

(remainder of Section III, D does not apply and has been deleted)

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):⁴ Not Applicable

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY): Not Applicable

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☐ Office concurs with data sheets/delineation report.
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
- ☐ USGS NHD data.
- ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: .
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

⁴ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- ☒ Photographs: ☒ Aerial/satellite imagery available upon request from ORM2 database as well as satellite imagery from 2004 and 2006..
- or ☒ Other (Name & Date):ground photos taken during May 8, 2008 onsite.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Bear River is a traditionally navigable water of U.S. under Section 404 of the Clean Water Act as it does support current boating navigation and historic navigation. It also provides substantial hydropower on interstate grid at numerous dams. River provides locations for public boating access with numerous public ramps along its length.